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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1426 OF 2007
IN
WRIT PETITION NO. 12 OF 2002

1. Mrs. Nilima Valmik Khairnar
& 2 ors. ... Applicants

V/s

1. Education Officer (Primary)
Ulhasnagar Municipal Corporation,
Ulhasnagar, Dist.Thane; & 2 ors. ... Respondents

Mr. R.S.Apte with Mr.M.S.Lagu for the applicants.

Mr. H.D.Buch for respondent Nos. 1 & 2.

Mr. S.K.Chinchalikar, A.G.P. for the Resp.No.3.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 28TH SEPT., 2007.

P.C.:

1. This civil application has been filed for following reliefs:-

> "(a) The respondents may be directed to make proper pay fixation of the salaries of the petitioner and pay the arrears of the salaries and difference therein as per the chart annexed to the present civil application.
>
> (b) The amount deposited in this Hon'ble Court by the Govt. authorities being 50:50 amount of the back wages may be invested as per directions given by this Hon'ble Court.
>
> (c) The respondents may be directed to pay the

salary for the month of February 2002 as per proper pay scale.

(d) The respondents may be directed to update and maintain properly the service book of the petitioners in accordance with the provisions of M.E.P.S. Act and rules framed thereunder and the respondents may also be directed to pay the difference of the salary after calculating properly leave as per the provisions of the M.E.P.S. Act and rules framed thereunder.

(e) The respondents may be directed to open the P.F. Account of the petitioners."

2. By order dated 13th December, 2001 this Court directed the petitioners - the respondents herein, to give effect to the order of the Tribunal regarding reinstatement of the employees w.e.f. 1.1.2002. Accordingly, the applicants have been reinstated w.e.f. 1.1.2002. A grievance is made in the application that after reinstatement their pay has not been fixed in the time-scale and, therefore, they are not being paid the proper salary. The order of the School Tribunal indicates that it has held that the applicants were appointed on probation and since they have completed more than two years of service, they were entitled to be labelled as permanent employees. Thus they must be paid wages as payable to a permanent employee, on their reinstatement from 1.1.2002. The petitioners are, therefore, directed to fix the salary of the applicants in accordance with law and to pay them the arrears of

salary within eight weeks from today. However, it is made clear that this payment and pay fixation shall be made subject to the result of this petition.

3. The back wages have already been deposited in this Court. By order dated 13.12.2001 back wages were directed to be deposited and there is also an order that the amount shall be invested once it is deposited. Thus, prayer clause (b) need not be granted.

4. As regards prayer clause (c), Mr.Buch for the original petitioner submits that the salary for the month of February 2002 has not been paid because of the objections raised by the pay unit of the Zilla Parishad. This objection cannot come in the way of payment to be made to the applicants since there is already an order of this Court dated 5.7.2002 directing that the current wages for every month must be paid regularly to the applicants. Therefore, salary for the month of February 2002 shall be paid to the applicants within four weeks from today.

5. As regards prayer clause (d), it is allowed subject to the result of this petition.

6. Prayer clause (e) is not relevant against the

present petitioners.

7. Civil application disposed of accordingly.

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